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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/694,855	10/24/2000	Robert M. Amici	00077	3438

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Martha Ann Finnegan, Esq.  
Law Department  
CABOT CORPORATION  
157 Concord Road  
Billerica, MA 01821-7001

EXAMINER

TRA, TUYEN Q

ART UNIT

PAPER NUMBER

2873

DATE MAILED: 06/04/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/694,855

Applicant(s)

AMICI ET AL.

Examiner

Tuyen Q Tra

Art Unit

2873

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 14 March 2003.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-29 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1,3-9,11-17 and 22-29 is/are allowed.
- 6) ☒ Claim(s) 2,10,18 and 19 is/are rejected.
- 7) ☒ Claim(s) 20 and 21 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 13.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 2 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Drzaic (WO 99/67678 A3).

a) With respect to claim 2, Drzaic discloses means of addressing microencapsulated display media comprising of an arrangement of particles, wherein an optical response results from the rotation of the particles in a fluid, wherein a portion of the particles have attached at least one organic group having an ionic group, ionizable group or both; wherein the arrangement of particles is located in the visual display device or the display media (page15, lines15-16).

b) With respect to claim 10, Drzaic discloses means of addressing microencapsulated display media comprising of modified colored pigment comprising a) an arrangement of particles, wherein an optical response (i.e. color particles moving up/down in capsules) results from the rotation of the particles in a fluid, wherein a portion of the particles have attached at least one organic group having an ionic group, ionizable group or both; and b) means (i.e. electrodes to cause electric field) to cause the controlled rotation of the elements to achieve the optical response, and wherein the arrangement of capsules is located in the visual display device or the display media(page15, lines15-16).

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*Claim Rejections - 35 USC § 103*

3. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

4. Claims 18 and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Drzaic (WO 9967678 A3), as applied to claim 2 above, in view of Mahmud et al. (U.S. Pat. 6,534,569B2).

Drzaic discloses means of addressing microencapsulated display media comprising of an arrangement of particles, wherein an optical response results from the rotation of the particles in a fluid, wherein a portion of the particles have attached at least one organic group having an ionic group, ionizable group or both; wherein the arrangement of particles is located in the visual display device or the display media.

However, Drzaic fails to teach that the particle is colored pigments and wherein the organic group comprises at least one aromatic group, at least one C1-C100 alkyl group, or mixture thereof. Within the same field of endeavor, Mahmud et al. discloses a polymers containing modified pigments and methods of preparing the same with teaching of the particle is colored pigments and wherein the organic group comprises at least one aromatic group, at least one C1-C100 alkyl group, or mixture thereof, wherein the particle are black carbon (col.13, lines 8-9; col.14, lines 1-3).

It would have been obvious, therefore, at the time the invention was made to a person having skill in the art to construct the particles having attached at least one organic group such as

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disclosed by Drzaic, with the particle is colored pigments and wherein the organic group comprises at least one aromatic group, at least one C1-C100 alkyl group, or mixture thereof, wherein the particle are black carbon, such as discloses by Mahmud et al., for purpose of displaying color.

*Allowable Subject Matter*

5. Claims 1, 3-9, 11-17 and 22-29 are allowed.

Reasons for allowance have set forth in the previous office action.

RESPONSE TO APPLICANT'S ARGUMENT

6. Applicant's arguments with respect to claims 2 and 10 have been considered but are moot in view of the new grounds of rejection.

7. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a).

Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

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*Conclusion*

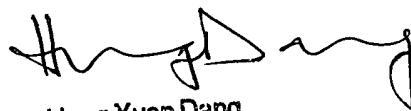
8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tuyen Tra whose telephone number is (703) 306-5712. The examiner can normally be reached on Monday to Friday from 8:30am to 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Georgia Epps, can be reached on (703) 308-4883. The fax number for this Group is (703) 308-7722.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308-0956.

tt

May 19, 2003

  
Hung Xuan Dang  
Primary Examiner